

ARKANSAS COURT OF APPEALS

DIVISION II

No. CA08-196

RICKY D. BILLINGSLEY

APPELLANT

V.

HILLCREST CARE & REHAB

APPELLEE

Opinion Delivered September 17, 2008APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION

[NOS. F402205; F502968]

AFFIRMED

JOHN MAUZY PITTMAN, Chief Judge

The Arkansas Workers' Compensation Commission affirmed and adopted an opinion of the administrative law judge denying benefits to appellant. The Commission found that appellant failed to prove by medical evidence supported by objective findings that he sustained compensable thoracic and cervical injuries and that he failed to prove entitlement to benefits for partial disability, temporary total disability, and additional medical treatment. We affirm.

When a workers' compensation claim is denied, the substantial evidence standard of review requires us to affirm the Commission if its opinion displays a substantial basis for denial of the relief sought by the worker. *Whitten v. Edward Trucking/Corporate Solutions*, 87 Ark. App. 112, 189 S.W.3d 82 (2004). In determining the sufficiency of the evidence to sustain the findings of the Commission, we review the evidence in the light most favorable to the Commission's findings and affirm if they are supported by substantial evidence. *Id.* Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate

to support a conclusion. *Id.* We will not reverse the Commission unless we are convinced that fair-minded persons with the same facts before them could not have reached the conclusions of the Commission. *Id.* The question is not whether the evidence would have supported findings contrary to the ones made by the Commission; there may be substantial evidence to support the Commission's decision even though we might have reached a different conclusion if we sat as the trier of fact or heard the case de novo. *Id.* In making our review, we recognize that it is the Commission's function to determine the credibility of witnesses and the weight to be given their testimony. *Id.* Moreover, the Commission has the duty of weighing medical evidence; if the evidence is conflicting, its resolution is a question of fact for the Commission. *Id.*

Appellant filed a claim for workers' compensation benefits alleging that he suffered compensable injuries to his lumbar, thoracic, and cervical spine resulting from two work-related accidents. His employer, appellee Hillcrest Care & Rehab, accepted appellant's lumbar back injury as a compensable result of the initial accident, but denied that appellant had sustained compensable injuries to his thoracic and cervical spine, or any other injuries resulting from the second accident. After a hearing, the administrative law judge, in an opinion adopted by the Commission, found that appellant failed to prove by medical evidence supported by objective findings that he sustained compensable injuries to his thoracic or cervical spine and denied appellant's request for additional benefits.

Any determination of the existence or extent of physical impairment must be supported by objective and measurable physical findings. Ark. Code Ann. § 11-9-704(c)(1)(B) (Repl.

2002). The Commission is authorized to decide which portions of the medical evidence to credit and to translate this medical evidence into a finding of permanent impairment using the AMA Guides. *Avaya v. Bryant*, 82 Ark. App. 273, 105 S.W.3d 811 (2003). Although there was evidence to the contrary, the Commission cited interpretations of appellant's cervical and thoracic MRIs and EKGs as "unremarkable" by Drs. Bigongiari and Smith in finding that appellant had failed to prove he sustained compensable injuries in those areas. Although contrary medical opinions were offered, the Commission was entitled to weigh their credibility, *see id.*, and there is therefore sufficient evidence to support its finding that objective findings were lacking.

Appellant also sought partial disability benefits for the period from February 2004 to February 2005. The Commission rejected this claim on the grounds that appellant failed to show what portion of his reduced earnings were attributable to his admittedly compensable injury to the lumbar spine. This is borne out by the record and constitutes a substantial basis for the denial of the requested relief. Likewise, appellant's claim for temporary-total disability benefits was denied on the strength of the Commission's finding that appellant's healing period ended before he stopped working in February 2005. This finding is amply supported by Dr. Smith's opinion that appellant had recovered from his lumbar injury by March 31, 2004. Again, although there was evidence to the contrary, the Commission was not required to believe it. This evidence that appellant's compensable injury had healed also supports the denial of additional medical treatment.

Affirmed.

MARSHALL and HEFFLEY, JJ., agree.